

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEABLO CLENTSCALE,)	
Plaintiff)	
)	
vs.)	Civil Action No. 07-307J
)	Judge Kim R. Gibson/
JEFFERY A. BEARD, Secretary,)	Magistrate Judge Amy Reynolds Hay
Pennsylvania Department of Corrections;)	
GEORGE N. PATRICK, Superintendent,)	
SCI Houtzdale; KENNETH CAMERON,)	
Deputy Superintendent for Centralized)	
Services; RANDALL BRITTON, Deputy)	
Superintendent for Facilities;)	
MUHAMMAD NAJI, M.D., Medical)	
Director,)	
Defendants)	

ORDER

AND NOW, this 13th day of August, 2008, after the Plaintiff,

Deablo Clentscale, filed an action in the above-captioned case, and after Defendants filed motions to dismiss, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the parties until July 28, 2008 to file written objections thereto, and no objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the motion to dismiss, Dkt. [6], filed by the DOC Defendants, is granted in part and denied in part. It is granted as to Plaintiff's procedural due process claim but denied as to Plaintiff's Eighth Amendment claim.

IT IS FURTHER ORDERED that Dr. Naji's motion to dismiss, Dkt. [13] is

denied. However, to the extent that Plaintiff's complaint seeks to make a procedural due process claim against Dr. Naji, any such procedural due process claim against Dr. Naji are dismissed pursuant to the screening provisions of the PLRA for failure to state a claim upon which relief can be granted.

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

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